

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 5/6/2021

JOHN MURPHY,

Plaintiff,

-against-

BIOTELEMETRY INC., JOSEPH H. CAPPER, ANTHONY J.
CONTI, LAURA N. DIETCH, JOSEPH A. FRICK, KIRK E.
GORMAN, COLIN HILL, TIFFANY OLSON, STEPHAN
RIETIKER, REBECCA W. RIMEL, ROBERT J. RUBIN,
PHILIPS HOLDING USA INC., DAVIES MERGER SUB,
INC., and KONINKLIJKE PHILIPS N.V.,

Defendants.

1:20-cv-11019-MKV

ORDER

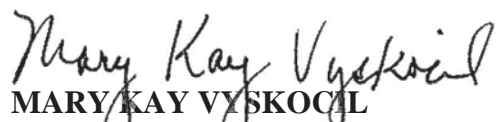
MARY KAY VYSKOCIL, United States District Judge:

On April 5, 2021, the Court entered an Order directing Plaintiff to serve the summons and Complaint on Defendants on or before May 5, 2021, or to show cause why service has not been made. [ECF No. 4.] The Court warned that failure to comply with the Court's Order would result in dismissal of the action for failure to prosecute. To date, Plaintiff has not filed proof of service, shown cause why service has not been made, or taken any other action to prosecute the case.

Accordingly, IT IS HEREBY ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court's calendar if the application to restore the action is made by **June 7, 2021**. If no such application is made by that date, today's dismissal of the action is with prejudice. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

SO ORDERED.

Dated: May 6, 2021
New York, NY


MARY KAY VYSKOCIL
United States District Judge